

California Regional Water Quality Control Board
North Coast Region

RESOLUTION NO. R1-2004-0087
November 29, 2004

Total Maximum Daily Load
Implementation Policy Statement
for
Sediment-Impaired Receiving Waters
in the North Coast Region

WHEREAS, the California Regional Water Quality Control Board, North Coast Region, (hereinafter the Regional Water Board) finds that:

1. The Water Quality Control Plan for the North Coast Region (hereinafter the Basin Plan) designates the beneficial uses of water bodies within the North Coast Region. These uses include, but are not limited to, municipal drinking water use, cold freshwater habitat, estuarine habitat, spawning, reproduction, migration, and early development of cold water fish. The Basin Plan also establishes water quality objectives for the protection of these beneficial uses. Sediment-related water quality objectives in the North Coast Region include objectives for suspended material, settleable material, sediment, and turbidity. The beneficial uses of water bodies, water quality objectives, and anti-degradation policies, together, constitute water quality standards.
2. Section 303(d) of the Clean Water Act requires states to identify waters that do not meet applicable water quality standards.
3. Approximately, fifty-nine percent of the area of the North Coast Region is "listed" as impaired due to sediment under Section 303(d) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act. The vast majority of these water bodies have been so listed since 1993.
4. Section 303(d) of the Clean Water Act also requires states or the United States Environmental Protection Agency (U.S. EPA) to establish the total maximum daily load (TMDL) of each pollutant for those water bodies that, under Section 303(d), do not meet applicable water quality standards. Such TMDLs shall be established at levels necessary to implement applicable water quality standards with seasonal variations and a margin of safety.
5. The U.S. EPA, Region IX has established sediment TMDLs for fifteen water bodies in the North Coast Region, including sediment TMDLs for the Albion River, Big River, Middle Fork Eel River, North Fork Eel River, South Fork Eel River, Garcia River, Gualala River, Mattole River, Navarro River, Noyo River, Redwood Creek, Ten Mile River, Trinity River, South Fork Trinity River, and Van Duzen River. Each of these TMDLs included a sediment source analysis, TMDL calculation, load allocations, seasonal variations, and a margin of safety.
6. Completed TMDLs provide confirmation of water body impairment, analysis of pollutant sources, and guidance for source reduction.

7. The documented impairment by sediment of the majority of the area of North Coast Region is evidence that the implementation of existing programs used for the control of anthropogenic sediment waste discharges has not been adequate to protect, remediate, restore, and enhance sediment-impaired water bodies and to control the cumulative impacts of sediment waste discharges on such watersheds.
8. The Regional Water Board has recently employed other regulatory, executive, and enforcement tools at its disposal to address sediment waste discharges. These more comprehensive tools, which have often been underutilized, include, but are not limited to:
 - the identification and assessment of sediment waste discharge sources under the authority of Section 13267 (investigations, inspections) of the California Water Code,
 - the control of sediment waste discharges under the authority of Sections 13304 (cleanup and abatement) and 13260 (waste discharge requirements) of the California Water Code,
 - the monitoring of sediment waste discharges and their effects on receiving waters under the authority of Section 13267 of the California Water Code,
 - agreements with other agencies and organizations through Memoranda of Understanding,
 - application of the *Plan for California's Nonpoint Source Pollution Control Program*, and
 - enforcement actions, including, but not limited to, cleanup and abatement orders under the authority of Section 13304 of the California Water Code, time schedule orders under the authority of Section 13300 of the California Water Code, cease and desist orders under the authority of Sections 13301-13303 of the California Water Code, and administrative civil liabilities under the authority of several sections of the California Water Code and Health and Safety Code.
9. The existing efforts to remedy sediment impairment relied upon the addition of watershed-specific Action Plans to the Basin Plan. This approach has taken many years to complete. Staff work effort to develop the "Action Plan for the Garcia River Watershed Sediment TMDL" began in 1996 and was finally established on January 3, 2002.
10. There is an immediate need for the prevention and control of sediment waste discharges with a greater dedication of staff time to outreach, education, prevention, permitting, and enforcement of existing rules.
11. There is a need for the collection and analysis of data on the condition of sediment-impaired water bodies and watersheds throughout the North Coast Region. Monitoring of water bodies and upslope conditions is necessary to demonstrate the progress of water bodies towards recovery and the effectiveness of sediment waste discharge control efforts. Monitoring is also necessary to implement adaptive management.
12. On the 5th, 12th, 13th, and 18th of October 2004, Regional Water Board staff held public workshops and received written and oral comments on this policy statement. On November 29, 2004, the Regional Water Board held a public hearing and received written comments and testimony on this policy statement.
13. This policy statement is consistent with the provisions of the State Water Resources Control Board Resolution No. 68-16, which is the "Statement of Policy with Respect to Maintaining High Quality Waters in California." Resolution No. 68-16 incorporates the federal Antidegradation Policy.
14. This policy statement does not constitute a discretionary permit or regulation or other discretionary action constituting a "project" as that term is defined by the California Environmental Quality Act (CEQA) (14 CCR §15378). Thus, no environmental review is required under CEQA. Moreover, if this policy statement were construed as a project

triggering CEQA review obligations, consistent with the CEQA Guidelines' Class 7 and Class 8 Exemptions, this policy statement is an action taken by a regulatory agency to "assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment" (14 CCR §15307 and §15308).

THEREFORE, BE IT RESOLVED THAT,

1. The Regional Water Board hereby directs the Executive Officer to develop a workplan, which shall be presented to the Regional Water Board by December 31, 2005, and updated thereafter as necessary. The workplan shall set watershed priorities for addressing sediment waste discharges at a watershed-specific level and shall describe how and when the following actions will be taken throughout the North Coast Region. The workplan can be used to demonstrate that the Regional Water Board is more effectively addressing sediment waste discharges. Furthermore, the Regional Water Board hereby directs the Executive Officer, based on information provided in TMDLs and other available sources, to:
 - A. Rely on the use of all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste. Existing permitting and enforcement tools include, but are not limited to:
 - watershed-wide waste discharge requirements,
 - individual or project-specific waste discharge requirements,
 - general waste discharge requirements,
 - waivers of waste discharge requirements,
 - National Pollution Discharge Elimination System (NPDES) and/or stormwater permits,
 - CDF's timber harvest plan approval process,
 - the *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* adopted by the State Water Resources Control Board on May 20, 2004, and as may be amended,
 - the identification and assessment of sediment waste discharge sources under the authority of Section 13267 of the California Water Code,
 - the control of sediment waste discharges under the authority of Sections 13304 and 13260 of the California Water Code,
 - the monitoring of sediment waste discharges and their effects on receiving waters under the authority of Section 13267 of the California Water Code,
 - enforcement actions, including, but not limited to, cleanup and abatement orders, time schedule orders, cease and desist orders, and administrative civil liabilities.
 - B. Rely on the use of the Sediment Waste Discharge Prohibitions and Action Plan, once adopted and in effect, to more effectively and efficaciously pursue compliance with sediment-related standards for all discharges of sediment waste.
 - C. Continue ongoing energetic efforts to implement the Regional Water Board's previous direction to address cumulative impact issues arising from timber harvest activities, using the Regional Water Board's direction for enhanced THP review, Senate Bill 810 authority, the recently adopted general timber waste discharge requirements and waivers thereof, watershed-wide waste discharge requirements, and other timber harvest-specific regulation as appropriate for each unique watershed.
 - D. Pursue Memoranda of Understanding and other non-regulatory actions with other agencies and organizations to encourage more efficacious sediment waste discharge control, watershed restoration, and protection activities. Agreements with third parties

shall be consistent with the *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program*.

- E. Work with local governments and non-profit organizations to develop sediment prevention, reduction, and mitigation strategies, including, but not limited to, grading ordinances and road management policies.
 - F. Enhance non-regulatory actions with organizations and individuals to encourage sediment waste discharge control, watershed restoration, and protection activities.
 - G. Redirect and seek additional staff resources for public outreach, education, permitting, and enforcement of water quality standards.
 - H. Develop a guidance document on sediment waste discharge control for use by the public, landowners, organizations, the Regional Water Board and staff, and other agencies involved with sediment control. This guidance document shall include, but not be limited to, examples of sediment waste discharge sites, sediment control practices, and road management practices; suggested content of a comprehensive inventory of sediment waste discharge sites and a comprehensive erosion or sediment control plan; sediment assessment methods; suggested prioritization criteria; and monitoring guidance. The guidance document shall be prepared for presentation to this Board no later than December 31, 2005, as part of the initial workplan.
 - I. Develop a sediment TMDL implementation monitoring strategy designed to provide the Regional Water Board with feedback on the recovery of sediment-impaired water bodies in the North Coast Region and implement adaptive management. The monitoring strategy shall include monitoring objectives, the locations of established trend monitoring stations, a description of sediment-related parameters to be monitored, benchmark conditions, measurable milestones, and specific due dates for monitoring and data analysis. Monitoring of salmonid freshwater habitat conditions should occur in both sediment-impaired water bodies and reference water bodies so as to account for variability in climatic conditions and storm-flow characteristics. The monitoring strategy shall be prepared for presentation to this Board no later than December 31, 2005, as part of the initial workplan.
 - J. Report to the Regional Water Board with an assessment of the effectiveness of this policy statement in protecting, restoring, and enhancing beneficial uses and achieving sediment-related water quality standards in sediment-impaired water bodies throughout the North Coast Region. The report shall include information on the progress of achieving monitoring milestones and sediment-related water quality standards. Should data indicate the lack of sufficient progress toward attainment of sediment-related water quality standards, the Executive Officer shall suggest additional actions for the control of sediment waste discharges. The report shall be prepared for presentation to this Board no later than December 31, 2009, and every five years thereafter.
2. The Regional Water Board hereby directs staff and strongly encourages all landowners within the North Coast Region that are currently discharging or threatening to discharge sediment waste to work to control discharges. Landowners are encouraged to work with Regional Water Board staff for guidance and assistance, and/or work with other agencies, organizations, and sediment control professionals. The goals of such joint efforts are to build cooperative relationships, where possible, with landowners that adopt a stewardship approach on their land holdings so that such landowners can address their sediment waste discharges in a non-regulatory manner so as to protect and enhance water quality in sediment-impaired watersheds.

3. The Regional Water Board hereby directs the Executive Officer to assure completion of a scientific document entitled "Salmonid Freshwater Habitat Properly Functioning Conditions for Sediment-Related Parameters (Indices)" as the staff's best professional judgment of current scientific knowledge on such conditions and parameters (indices). The Executive Officer shall periodically update such document to incorporate future research, data and technologies. Such document shall be made available to stakeholders and interested parties.
4. In prioritizing efforts among and within watersheds, the Regional Water Board hereby directs staff to consider the fifteen sediment TMDLs established by the U.S. EPA as foundational technical documents upon which to base implementation actions. Staff shall also consider other available and pertinent information, data, and analyses. The sediment TMDLs established to date by the U.S. EPA are for the Albion River, Big River, Middle Fork Eel River, North Fork Eel River, South Fork Eel River, Garcia River, Gualala River, Mattole River, Navarro River, Noyo River, Redwood Creek, Ten Mile River, Trinity River, South Fork Trinity River, and Van Duzen River. The "establishment" of TMDLs by the U.S. EPA has been conducted under the full authority of the Clean Water Act and is equivalent to "adoption" of a TMDL as described in 14 CCR §916.9(a)(1).
5. The Regional Water Board hereby directs the Executive Officer to prepare, for future Board consideration, as necessary, amendments to the Basin Plan for established TMDLs as required by Sections 303(d)(2) and 303(e)(3) of the Clean Water Act.

Certification

I, Catherine Kuhlman, Executive Officer do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, North Coast Region, on November 29, 2004.


Catherine Kuhlman
Executive Officer